

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MARSHA JACKSON,

Plaintiff,

V.

**BLUE STAR RECYCLING, LLC,
CCR EQUITY HOLDINGS ONE, LLC, and
CABE CHADICK**

Defendants.

[illegible]

CIVIL ACTION NO. 3:20-cv-00967-M

DEFENDANT CCR EQUITY HOLDINGS ONE, LLC'S MOTION TO DISMISS

Defendant CCR Equity Holdings One, LLC (“CCR One” or “Defendant”) files this Motion to Dismiss and respectfully shows the Court as follows:

1. CCR One files this Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) because the Court lacks subject matter jurisdiction and Plaintiff fails to state a claim against CCR One upon which relief can be granted.

2. The Court lacks subject matter jurisdiction because Plaintiff's Notice Letter fails to satisfy the jurisdiction prerequisites set forth in 42 U.S.C. § 6972. The Notice Letter fails to put Defendant Cabe Chadick on Notice, was not sent to Chris Ganter, an individual alleged to have contributed to the handling, storage, treatment, transportation, or disposal of alleged solid waste as set forth in Plaintiff's Complaint, and does not provide sufficient notice as to the alleged imminent and substantial endangerment.

3. The Court lacks subject matter jurisdiction because Plaintiff's claim is precluded by the State of Texas's lawsuit pending in the 191st District Court of Dallas County, Texas which seeks identical relief to that which Plaintiff seeks.

4. Plaintiff fails to state a claim against CCR One because she has not alleged sufficient facts to show the material at the property is solid waste.

5. Plaintiff also fails to state a claim against CCR One because she has not alleged sufficient facts to show CCR One contributed to the handling, storage, treatment, transportation, or disposal of solid waste. Instead, CCR One is a mere owner of the property on which others allegedly handled, stored, treated, transported, or disposed of solid waste.

6. Legal and factual argument in support of this motion is provided in the accompanying brief and appendix.

WHEREFORE, Defendant CCR Equity Holdings One, LLC prays the Court grant this Motion to Dismiss because it lacks subject matter jurisdiction over Plaintiff's claim or alternatively because Plaintiff does not state a single cause of action against CCR Equity Holdings One, LLC upon which relief can be granted.

Respectfully submitted,

/s/ Gregory M. Sudbury

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**ATTORNEYS FOR DEFENDANT CCR
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CERTIFICATE OF SERVICE

This is to certify that on June 19, 2020 a true and correct copy of the foregoing pleading has been furnished to all counsel of record, via ECF, in accordance with the Federal Rules of Civil Procedure.

/s/ Gregory M. Sudbury

Gregory M. Sudbury